

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF POLAR	)	
COMMUNICATIONS CORP. D/B/A POLARNET	)	
COMMUNICATIONS CORP. FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE	)	CASE NO. 93-191
AND NECESSITY TO PROVIDE RESOLD	)	
TELECOMMUNICATIONS SERVICES,	)	
INCLUDING OPERATOR SERVICES	)	

O R D E R

This matter arising upon petition of Polar Communications Corp. d/b/a Polarnet Communications Corp. ("Polarnet") filed July 8, 1993 for rehearing of the Commission's Order of June 18, 1993 denying confidential protection to Polarnet's most recent financial statements, and it appearing to this Commission as follows:

Polarnet has applied to the Commission for a Certificate of Public Convenience and Necessity to resell intrastate telecommunications services, including operator services. On June 18, 1993, the Commission denied Polarnet's petition for confidential protection of its most recent financial statements which were filed in support of Polarnet's application for the certificate. The petition was denied because it did not establish how Polarnet would be injured if the information sought to be protected was not withheld from public disclosure.

The information sought to be protected is not known outside of Polarnet's business and is known only by those Polarnet employees who have a business need to know the information.

Polarnet takes all reasonable steps and precautions to protect the confidentiality of the information.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The financial statements which Polarnet seeks to protect reveal Polarnet's financial strengths and weaknesses. Competitors of Polarnet could use this information to implement price competition at levels and for a period that Polarnet might not be able to sustain and, thereby, drive Polarnet from the marketplace. Therefore, the information has competitive value and should be protected as confidential.

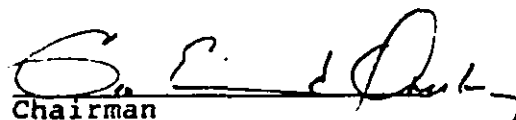
This Commission being otherwise sufficiently advised,

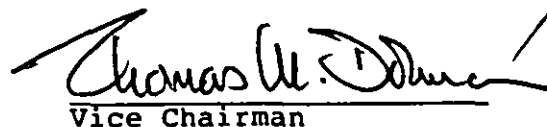
IT IS ORDERED that the most recent financial statements filed by Polarnet in support of its application for a certificate, which

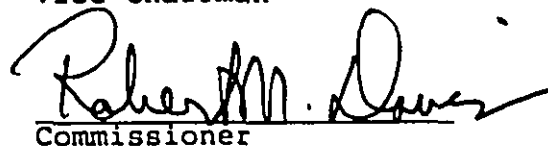
Polarnet has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 28th day of July, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director